

AN ACT

RELATING TO COMMUNITY DEVELOPMENT BY ESTABLISHING APPLICATION RULES AND LIMITATIONS FOR WIRELESS COMMUNICATIONS FACILITIES AND INFRASTRUCTURE, BY MODIFYING PROVISIONS RELATED TO REINVESTMENT DISTRICTS AND FLOOD MITIGATION PROJECTS, AND BY PROVIDING FOR THE COORDINATION AND FACILITATION OF BROADBAND ACCESS IN TARGETED AREAS OF THE STATE, INCLUDING PROPERTY TAX INCENTIVES, AND INCLUDING EFFECTIVE DATE AND RETROACTIVE AND OTHER APPLICABILITY PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

WIRELESS COMMUNICATIONS FACILITIES AND INFRASTRUCTURE APPLICATIONS

Section 1. NEW SECTION. 8C.1 Short title.

This chapter shall be known and may be cited as the "*Iowa Cell Siting Act*".

Sec. 2. NEW SECTION. 8C.2 Definitions.

For the purposes of this chapter, unless the context otherwise requires:

1. "*Applicant*" means any person engaged in the business of providing wireless telecommunications services or the wireless telecommunications infrastructure required for wireless telecommunications services and who submits an application.

2. "*Application*" means a request submitted by an applicant to an authority to construct a new tower, for the initial placement of transmission equipment on a wireless support structure, for the modification of an existing tower or existing base station that constitutes a substantial change to an existing tower or existing base station, or any other request to construct or place transmission equipment that does

not meet the definition of an eligible facilities request.

3. *"Authority"*, used as a noun, means a state, county, or city governing body, board, agency, office, or commission authorized by law to make legislative, quasi-judicial, or administrative decisions relative to an application. *"Authority"* does not include state courts having jurisdiction over land use, planning, or zoning decisions made by an authority, the utilities division of the department of commerce, or entities that do not have zoning or permitting authority.

4. a. *"Base station"* means a structure or equipment at a fixed location that enables wireless communications licensed by the federal communications commission or authorized wireless communications between user equipment and a communications network.

b. *"Base station"* does not mean a tower or equipment associated with a tower.

c. *"Base station"* includes but is not limited to equipment associated with wireless communications services such as private, broadcast, and public safety services and unlicensed wireless services and fixed wireless services such as microwave backhaul.

d. *"Base station"* includes but is not limited to radio transceivers, antennas, coaxial or fiberoptic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

e. *"Base station"* includes a structure other than a tower that, at the time the relevant application is filed with the state or local government, supports or houses equipment described in this subsection that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

f. *"Base station"* does not include any structure that at the time the relevant application is filed with the state or local government does not support or house equipment described in this subsection.

5. *"Collocation"* means the mounting or installation of additional transmission equipment on a support structure already in use for the purpose of transmitting or receiving radio frequency signals for communications purposes.

5A. *"Electric utility"* means any owner or operator of

electric transmission or distribution facilities subject to the regulation and enforcement activities of the Iowa utilities board relating to safety standards.

6. "*Eligible facilities request*" means a request for modification of an existing tower or base station that does not substantially change the physical dimensions of the tower or base station and involves collocation of new transmission equipment, the removal of transmission equipment, or the replacement of transmission equipment.

7. "*Existing tower*" or "*existing base station*" means a tower or base station that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process. "*Existing tower*" includes a tower that was not reviewed and approved because it was not in a zoned area when it was built and lawfully constructed.

8. "*Initial placement or installation*" means the first time transmission equipment is placed or installed on a wireless support structure.

9. a. "*Site*", in relation to a tower that is not in the public right-of-way, means the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

b. "*Site*", in relation to support structures other than towers, means an area in proximity to the structure and to other transmission equipment already deployed on the ground.

10. "*Substantial change*" means a change in the existing support structure which results in one or more of the following:

a. (1) Increase in the height of a tower, other than a tower in the public right-of-way, by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater.

(2) Increase in the height of existing support structures, other than a tower in subparagraph (1), by more than ten percent or more than ten feet, whichever is greater.

(3) Height shall be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops. Otherwise, height shall be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act, Pub. L. No. 112-96, Tit. VI.

*b.* (1) Addition of an appurtenance to the body of the tower, other than a tower in the public right-of-way, that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.

(2) Addition of an appurtenance to an existing support structure, other than a tower under subparagraph (1), that would protrude from the edge of the structure by more than six feet.

*c.* (1) Installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets.

(2) Installation of any new equipment cabinets on the ground if there are no preexisting ground cabinets associated with the tower in the public right-of-way or base station.

(3) Installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with a tower in the public right-of-way or base station.

*d.* Excavation or deployment outside the current site.

*e.* Defeat of concealment elements of the existing support structure.

*f.* Noncompliance with conditions associated with the siting approval of the construction or modification of the existing support structure or base station equipment, except if the change is noncompliant only in a manner that does not exceed the thresholds identified in paragraphs "a" through "d".

11. "Tower" means a structure built for the sole or primary purpose of supporting an antenna and the associated facilities authorized or licensed by the federal communications commission. "Tower" includes structures constructed for wireless communications services, including but not limited to private, broadcast, and public safety services and unlicensed wireless services and fixed wireless services, such as microwave backhaul, and the associated site.

12. "Transmission equipment" means equipment that facilitates transmission for a wireless communications service licensed or authorized by the federal communications commission, including but not limited to radio transceivers, antennas, coaxial or fiberoptic cable, and regular and backup power supply. "Transmission equipment" includes equipment associated with wireless communications services, including but not limited to private, broadcast, and public safety services,

such as wireless local area network services and services utilizing a set of specifications developed by the institute of electrical and electronics engineers for interface between a wireless client and a base station or between two wireless clients, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul.

12A. *"Utility pole"* means a structure owned or operated by a public utility, municipality, or electric utility that is designed specifically for and used to carry lines, cable, or wires for telephone, cable television, or electricity, or to provide lighting.

13. *"Wireless support structure"* means a structure that exists at the time an application is submitted and is capable of supporting the attachment or installation of transmission equipment in compliance with applicable codes, including but not limited to water towers, buildings, and other structures, whether within or outside the public right-of-way. *"Wireless support structure"* does not include a tower or existing base station.

**Sec. 3. NEW SECTION. 8C.3 Uniform rules and limitations — applications.**

In order to ensure uniformity across this state with respect to the consideration of every application, and notwithstanding any other provision to the contrary, an authority shall not do any of the following:

1. Require an applicant to submit information about, or evaluate an applicant's business decisions with respect to, the applicant's designed service, customer demand for service, or quality of the applicant's service to or from a particular area or site, but may require propagation maps solely for the purpose of identifying the location of the coverage or capacity gap or need for applications for new towers in an area zoned residential.

2. *a.* Evaluate an application based on the availability of other potential locations for the placement or construction of a tower or transmission equipment.

*b.* Require the applicant to establish other options for collocation instead of the construction of a new tower or modification of an existing tower or existing base station that constitutes a substantial change to an existing tower or existing base station.

*c.* Notwithstanding paragraph *"b"*, an authority shall require an applicant applying for the construction of a new tower to

provide an explanation regarding the reason for choosing the proposed location and the reason the applicant did not choose collocation. The explanation shall include a sworn statement from an individual who has responsibility over placement of the tower attesting that collocation within the area determined by the applicant to meet the applicant's radio frequency engineering requirements for the placement of a site would not result in the same mobile service functionality, coverage, and capacity, is technically infeasible, or is economically burdensome to the applicant.

3. Dictate the type of transmission equipment or technology to be used by the applicant or discriminate between different types of infrastructure or technology.

4. *a.* Require the removal of existing towers, base stations, or transmission equipment, wherever located, as a condition to approval of an application.

*b.* Notwithstanding paragraph "a", the authority may adopt reasonable rules regarding removal of abandoned towers or transmission equipment.

5. Impose environmental testing, sampling, or monitoring requirements, or other compliance measures, for radio frequency emissions from transmission equipment that are categorically excluded under the federal communications commission's rules for radio frequency emissions pursuant to 47 C.F.R. §1.1307(b)(1).

6. Establish or enforce regulations or procedures for radio frequency signal strength or the adequacy of service quality.

7. Reject an application, in whole or in part, based on perceived or alleged environmental effects of radio frequency emissions, as provided in 47 U.S.C. §332(c)(7)(B)(iv).

8. Prohibit the placement of emergency power systems that comply with federal and state environmental requirements.

9. Charge an application fee, consulting fee, or other fee associated with the submission, review, processing, or approval of an application, unless the fee charged is in compliance with this section. Fees imposed by an authority or by a third-party entity providing review or technical consultation to the authority shall be based on actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of an application. In no case shall total charges and fees exceed five hundred dollars for an eligible facilities request or three thousand dollars for an application for a new tower, for the initial placement or installation of

transmission equipment on a wireless support structure, for a modification of an existing tower or existing base station that constitutes a substantial change to an existing tower or base station, or any other application to construct or place transmission equipment that does not constitute an eligible facilities request. An authority or any third-party entity shall not include within its charges any travel expenses incurred in the review of an application for more than one trip to the authority's jurisdiction, and an applicant shall not be required to pay or reimburse an authority for consultant or other third-party fees based on a contingency-based or result-based arrangement.

10. Impose surety requirements, including bonds, escrow deposits, letters of credit, or any other type of financial surety, to ensure that abandoned or unused towers or transmission equipment can be removed, unless requirements are competitively neutral, nondiscriminatory, reasonable in amount, and commensurate with the historical record for local facilities and structures that are abandoned.

11. Condition the approval of an application on the applicant's agreement to provide space on or near the tower, base station, or wireless support structure for authority or local governmental or nongovernmental services at less than the market rate for such space or to provide other services via the structure or facilities at less than the market rate for such services.

12. Limit the duration of the approval of an application, except that construction of the approved structure or facilities shall be commenced within two years of final approval, including the disposition of any appeals, and diligently pursued to completion.

13. Discriminate on the basis of the ownership, including ownership by the authority, of any property, structure, or tower when promulgating rules or procedures for siting wireless facilities or for evaluating applications.

**Sec. 4. NEW SECTION. 8C.4 Uniform rules — new tower applications.**

1. An authority may exercise zoning, land use, planning, and permitting authority within the authority's territorial boundaries with regard to the siting of new towers, subject to the provisions of this chapter and federal law.

2. An applicant that proposes to construct a new tower within the jurisdiction of an authority that has adopted

planning and zoning regulations shall submit the necessary copies and attachments of the application to the appropriate authority and comply with applicable local ordinances concerning land use and the appropriate permitting processes.

3. All records, documents, and electronic data in the possession or custody of authority personnel are subject to chapter 22. Disclosure of such records shall be consistent with applicable state law.

4. An authority, within one hundred fifty calendar days of receiving an application to construct a new tower, unless another date is specified in a written agreement between the authority and the applicant, shall comply with the following provisions:

a. Review the application for conformity with applicable local zoning regulations, building permit requirements, and consistency with this chapter. An application is deemed to be complete unless the authority notifies the applicant in writing, within thirty calendar days of submission of the application, specifying the deficiencies in the application which, if cured, would make the application complete. The authority's timeframe to review the application is tolled beginning the date the notice is sent. The authority's timeframe of one hundred fifty days for review of the application begins running again when the applicant cures the specified deficiencies. Following the applicant's supplemental submission, the authority has ten days to notify the applicant that the supplemental submission did not provide the information identified in the original notice that specified deficiencies in the application. The authority's timeframe of one hundred fifty days to review the application is tolled in the case of second or subsequent notices in conformance with this paragraph. The authority shall not include deficiencies in a second or subsequent notice that were not delineated in the original notice. The authority's timeframe for review does not toll if the authority requests information regarding any of the considerations an authority may not consider as described in section 8C.3.

b. Make its final decision to approve or disapprove the application.

c. Advise the applicant in writing of its final decision.

5. If the authority fails to act on an application to construct a new tower within the timeframe for review specified under subsection 4, the application shall be deemed approved.

6. A party aggrieved by the final action of an authority, either by its affirmative disapproval of an application under the provisions of this section or by its inaction, may bring an action for review in any court of competent jurisdiction.

Sec. 5. NEW SECTION. **8C.5 Uniform rules for certain changes.**

1. An authority may exercise zoning, land use, planning, and permitting authority within the authority's territorial boundaries with regard to an application for initial placement or installation of transmission equipment on wireless support structures, for modification of an existing tower or existing base station that constitutes a substantial change, or for a request for construction or placement of transmission equipment that does not constitute an eligible facilities request, subject to the provisions of this chapter and federal law.

2. An applicant that proposes an initial placement or installation of transmission equipment on wireless support structures, a modification of an existing tower or existing base station that constitutes a substantial change, or a request for construction or placement of transmission equipment that does not constitute an eligible facilities request, within the jurisdiction of an authority that has adopted planning and zoning ordinances, rules, or regulations shall submit the necessary copies and attachments of the application to the authority and comply with such applicable local ordinances, rules, or regulations concerning land use and zoning and the appropriate local permitting processes.

3. All records, including but not limited to documents and electronic data, in the possession or custody of authority personnel are subject to chapter 22. Disclosure of such records shall be consistent with applicable state law.

4. An authority, within ninety calendar days of receiving an application pursuant to subsection 2, unless another date is specified in a written agreement between the authority and the applicant, shall comply with the following provisions:

a. Review the application for conformity with applicable local zoning ordinances, rules, or regulations, building permit requirements, and consistency with this chapter. An application is deemed to be complete unless the authority notifies the applicant in writing, within thirty calendar days of submission of the application, specifying the deficiencies in the application which, if cured, would make the application complete. The authority's timeframe for

review is tolled beginning the date the notice is sent. The authority's ninety-day timeframe for review of the application begins running again when the applicant cures the specified deficiencies. Following the applicant's supplemental submission, the authority has ten days to notify the applicant that the supplemental submission did not provide the information identified in the original notice that specified deficiencies. The authority's ninety-day timeframe to review the application is tolled in the case of second or subsequent notices in conformance with this paragraph. The authority shall not include deficiencies in a second or subsequent notice that were not delineated in the original notice. The authority's ninety-day timeframe for review does not toll if the authority requests information regarding any of the considerations an authority may not consider as described in section 8C.3.

b. Make its final decision to approve or disapprove the application.

c. Advise the applicant in writing of its final decision.

5. If the authority fails to act on an application for an initial placement or installation of transmission equipment on wireless support structures, for a modification of an existing tower or existing base station that constitutes a substantial change, or for a request for construction or placement of transmission equipment that does not constitute an eligible facilities request within the review period specified under subsection 4, the application shall be deemed approved.

6. A party aggrieved by the final action of an authority, either by its affirmative disapproval of an application under the provisions of this section or by its inaction, may bring an action for review in any court of competent jurisdiction.

**Sec. 6. NEW SECTION. 8C.6 Use of public lands for towers and transmission equipment.**

1. In accordance with other applicable laws, when entering into a lease with an applicant for the applicant's use of public lands, an authority shall offer the market rate value for use of that land. The term of the lease shall be for at least twenty years, but all or a portion of the land may be subject to release for public purposes after fifteen years.

2. a. If the authority and the applicant cannot agree on the market rate for lease of the public land and cannot agree on the process to derive the market rate, the appraisals of a three-person panel of appraisers shall determine the

market rate. Each party will appoint one appraiser and the two appointed appraisers shall select a third appraiser. Each appraiser shall independently appraise the appropriate market rate for lease of the land. The market rate shall be set at the median value between the highest and lowest market rates determined by the three independent appraisers. However, if the median between the appraisals of the appraisers appointed by each party is greater than or less than ten percent of the appraisal of the appraiser selected by the two appraisers, then the appraisal of the appraiser selected by the two appraisers shall determine the rate for the lease. Each appraiser shall send a copy of the appraisal to the authority and the applicant. The authority shall use the appraisal process under this paragraph to determine the lease rate for purposes of this subsection.

*Ob.* An authority shall approve or reject the lease rate as determined by the appraisal process pursuant to paragraph "a" within fifteen days following completion and receipt of the appraisals obtained pursuant to paragraph "a". The authority's failure to reject the lease rate as determined by the appraisal process within fifteen days constitutes approval of the lease rate determined pursuant to paragraph "a" as the market rate value for the use of the land for purposes of the lease between the authority and the applicant.

*b.* The authority and applicant shall conclude the appraisal process within one hundred fifty calendar days from the date the applicant first offered a proposed lease rate to the authority.

*c.* If using the three-person panel, each party shall bear the cost of its own appointed appraiser and equally share the cost of the third appraiser.

**Sec. 7. NEW SECTION. 8C.7 Utility poles.**

Notwithstanding any provision to the contrary, an authority shall not mandate, require, or regulate the installation, location, or use of transmission equipment on a utility pole.

**Sec. 8. NEW SECTION. 8C.8 Application and construction.**

This chapter shall not be construed as:

1. Prohibiting an airport, aviation authority, or municipality from administering and enforcing airport zoning pursuant to the provisions of chapter 329 for the protection of navigable airspace.

2. Infringing upon the jurisdiction of a commission, as defined in section 303.20, to approve or deny applications

for proposed alterations to exterior features within an area designated as an area of historical significance.

3. Infringing upon the jurisdiction of a city or county, or any other entity authorized by statute, to approve or deny applications for proposed alterations to exterior features of designated local historic landmarks.

Sec. 9. NEW SECTION. **8C.9 Repeal.**

This chapter is repealed July 1, 2020.

Sec. 10. APPLICABILITY. This division of this Act applies to applications submitted on or after the effective date of this division of this Act.

DIVISION II

REINVESTMENT DISTRICTS AND FLOOD MITIGATION

Sec. 11. Section 15J.4, subsection 3, paragraph a, Code 2015, is amended to read as follows:

a. The municipality shall submit a copy of the resolution, the proposed district plan, and all accompanying materials adopted pursuant to this section to the board for evaluation. The board shall not approve a proposed district plan ~~or an amendment to an existing district's plan~~ on or after July 1, 2018.

Sec. 12. Section 28F.12, Code 2015, is amended to read as follows:

**28F.12 Additional powers of the entity.**

1. If the entity is comprised solely of cities, counties, and sanitary districts established under chapter 358, or any combination thereof, the entity shall have in addition to all the powers enumerated in this chapter, the powers ~~which~~ that a county has with respect to solid waste disposal projects.

2. If the entity is comprised solely of cities, counties, and sanitary districts established under chapter 358, or any combination thereof, it is a governmental entity with respect to projects undertaken pursuant to chapter 418 and may exercise all of the powers of a governmental entity under that chapter in connection with the flood mitigation project. Unless otherwise provided in chapter 418, if undertaking a flood mitigation project as a governmental entity under chapter 418, the provisions of chapter 418 shall prevail over any conflicting provision in this chapter.

Sec. 13. Section 418.1, subsection 4, paragraph c, unnumbered paragraph 1, Code 2015, is amended to read as follows:

A joint board or other legal or administrative entity

established or designated in an agreement pursuant to chapter 28E or 28F between any of the following:

Sec. 14. Section 418.1, subsection 4, paragraph c, Code 2015, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) One or more counties, one or more cities that are located in whole or in part within those counties, and one or more sanitary districts established under chapter 358 or a combined water and sanitary district as provided for in sections 357.1B and 358.1B, located in whole or in part within those counties.

Sec. 15. Section 418.4, subsection 1, paragraph b, Code 2015, is amended to read as follows:

b. A governmental entity as defined in section 418.1, subsection 4, paragraph "c", shall have the power to construct, acquire, own, repair, improve, operate, and maintain a project, may sue and be sued, contract, and acquire and hold real and personal property, subject to the limitation in paragraph "c", and shall have such other powers as may be included in the chapter 28E or 28F agreement. Such a governmental entity may contract with a city or the county participating in the ~~chapter 28E~~ agreement to perform any governmental service, activity, or undertaking that the city or county is authorized by law to perform, including but not limited to contracts for administrative services.

Sec. 16. Section 418.11, subsection 3, paragraph c, Code 2015, is amended to read as follows:

c. For projects approved for a governmental entity as defined in section 418.1, subsection 4, paragraph "c", the area used to determine the sales tax increment shall include the incorporated areas of each participating city ~~that is participating in the chapter 28E agreement~~, the unincorporated areas of the each participating county, and the area of any participating drainage district not otherwise included in the areas of the participating cities or county, and the area served by any sanitary district or combined water and sanitary district and not otherwise included in the areas of the participating cities or counties, as applicable.

Sec. 17. Section 418.11, subsection 3, Code 2015, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. For all projects, the area used to determine the sales tax increment shall not include any parcels of real property that are included in a reinvestment district designated pursuant to chapter 15J.

Sec. 18. Section 418.14, subsection 3, paragraph a, Code 2015, is amended to read as follows:

a. Except as otherwise provided in this section, bonds issued pursuant to this section shall not be subject to the provisions of any other law or charter relating to the authorization, issuance, or sale of bonds. Bonds issued under this section shall not limit or restrict the authority of a governmental entity as defined in section 418.1, subsection 4, paragraphs "a" and "b", or a city, county, ~~or~~ drainage district, sanitary district, or combined water and sanitary district participating in a governmental entity as defined in section 418.1, subsection 4, paragraph "c", to issue bonds for the project under other provisions of the Code.

Sec. 19. Section 418.14, subsection 4, paragraph b, Code 2015, is amended to read as follows:

b. If the moneys in the governmental entity's flood project fund are insufficient to pay the governmental entity's costs related to bonds, notes, or other obligations issued under this chapter, the amounts necessary to pay such costs may be levied and transferred for deposit in the governmental entity's flood project fund from the debt service fund of the governmental entity or, if applicable, the debt service fund of a participating city or county for a governmental entity as defined in section 418.1, subsection 4, paragraph "c", but only if and to the extent provided in the resolution authorizing the issuance of bonds and, if applicable, the chapter 28E or 28F agreement.

Sec. 20. Section 418.15, subsection 4, Code 2015, is amended to read as follows:

4. All property and improvements acquired by a governmental entity as defined in section 418.1, subsection 4, paragraph "c", relating to a project shall be transferred to the county, city, ~~or~~ drainage district, sanitary district, or combined water and sanitary district designated in the chapter 28E or 28F agreement to receive such property and improvements. The county, city, ~~or~~ drainage district, sanitary district, or combined water and sanitary district to which such property or improvements are transferred shall, unless otherwise provided in the chapter 28E or 28F agreement, be solely responsible for the ongoing maintenance and support of such property and improvements.

Sec. 21. Section 423.2, subsection 11, paragraph b, Code 2015, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (05) Beginning the first day of the calendar quarter beginning on the reinvestment district's commencement date, subject to remittance limitations established by the economic development authority board pursuant to section 15J.4, subsection 3, transfer to a district account created in the state reinvestment district fund for each reinvestment district established under chapter 15J, the amount of new state sales tax revenue, determined in section 15J.5, subsection 1, paragraph "b", in the district, that remains after the prior transfers required under this paragraph "b". Such transfers shall cease pursuant to section 15J.8.

Sec. 22. Section 423.2, subsection 11, paragraph b, subparagraph (6), Code 2015, is amended by striking the subparagraph.

Sec. 23. Section 423.2, Code 2015, is amended by adding the following new subsection:

NEW SUBSECTION. 11A. Of the amount of sales tax revenue actually transferred per quarter pursuant to subsection 11, paragraph "b", subparagraphs (05) and (5), the department shall retain an amount equal to the actual cost of administering the transfers under subsection 11, paragraph "b", subparagraphs (05) and (5), or twenty-five thousand dollars, whichever is less. The amount retained by the department pursuant to this subsection shall be divided pro rata each quarter between the amounts that would have been transferred pursuant to subsection 11, paragraph "b", subparagraphs (05) and (5), without the deduction made by operation of this subsection. Revenues retained by the department pursuant to this subsection shall be considered repayment receipts as defined in section 8.2.

Sec. 24. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 25. RETROACTIVE AND OTHER APPLICABILITY.

1. Except as provided in subsection 3, this division of this Act applies retroactively to reinvestment districts designated under chapter 15J in existence on or after July 1, 2014.

2. Except as provided in subsection 3, this division of this Act applies to flood mitigation project plan applications received under chapter 418 before, on, or after the effective date of this division of this Act.

3. The sections of this division of this Act amending section 423.2, subsection 11, and enacting section 423.2, subsection 11A, apply to transfers of sales tax revenues made

on or after July 1, 2015.

DIVISION III

STATEWIDE BROADBAND COORDINATION

Sec. 26. Section 8B.1, Code 2015, is amended by adding the following new subsections:

NEW SUBSECTION. 01. "*Broadband*" means a high-speed, high-capacity electronic transmission medium, including fixed wireless and mobile wireless mediums, that can carry data signals from independent network sources by establishing different bandwidth channels and that is commonly used to deliver internet services to the public.

NEW SUBSECTION. 001. "*Broadband infrastructure*" means the physical infrastructure used for the transmission of data that provides broadband services. "*Broadband infrastructure*" does not include land, buildings, structures, improvements, or equipment not directly used in the transmission of data via broadband.

NEW SUBSECTION. 0001. "*Communications service provider*" means a service provider that provides broadband service.

NEW SUBSECTION. 00001. "*Crop operation*" means the same as defined in section 717A.1.

NEW SUBSECTION. 7A. "*Targeted service area*" means a United States census bureau census block located in this state, including any crop operation located within the census block, within which no communications service provider offers or facilitates broadband service at or above twenty-five megabits per second of download speed and three megabits per second of upload speed as of the effective date of this Act.

Sec. 27. Section 8B.1, subsection 1, Code 2015, is amended to read as follows:

1. "*Information technology*" means computing and electronics applications used to process and distribute information in digital and other forms and includes information technology devices, information technology services, infrastructure services, broadband and broadband infrastructure, and value-added services.

Sec. 28. Section 8B.3, subsection 1, Code 2015, is amended to read as follows:

1. The office is created for the purpose of leading, directing, managing, coordinating, and providing accountability for the information technology resources of state government and for coordinating statewide broadband availability and access.

Sec. 29. Section 8B.4, Code 2015, is amended by adding the following new subsections:

NEW SUBSECTION. 14A. Streamline, consolidate, and coordinate the access to and availability of broadband and broadband infrastructure throughout the state, including but not limited to the facilitation of public-private partnerships, ensuring that all state agencies' broadband and broadband infrastructure policies and procedures are aligned, resolving issues which arise with regard to implementation efforts, and collecting data and developing metrics or standards against which the data may be measured and evaluated regarding broadband infrastructure installation and deployment.

NEW SUBSECTION. 14B. Administer the broadband grant program pursuant to section 8B.11.

NEW SUBSECTION. 14C. Coordinate the fiberoptic network conduit installation program established in section 8B.25.

Sec. 30. Section 8B.9, Code 2015, is amended by adding the following new subsection:

NEW SUBSECTION. 5. An annual report regarding the status of broadband expansion and coordination, the connecting Iowa farms, schools, and communities broadband grant program established under section 8B.11, and the adequacy of the speed set in the definition of targeted service area in section 8B.1.

Sec. 31. NEW SECTION. **8B.10 Targeted service areas — determination — criteria.**

1. The determination of whether a communications service provider offers or facilitates broadband service meeting the download or upload speeds specified in the definition of targeted service area in section 8B.1 shall be determined or ascertained by reference to broadband availability maps or data sources that are widely accepted for accuracy and available for public review and comment and that are identified by the office by rule.

2. The office shall establish procedures to allow challenges to the office's finding on whether an area meets the definition of targeted service area.

Sec. 32. NEW SECTION. **8B.11 Connecting Iowa farms, schools, and communities — broadband grants — fund.**

1. The office shall administer a broadband grant program to award grants to communication service providers that reduce or eliminate targeted service areas by installing broadband infrastructure in targeted service areas in accordance with this section.

2. *a.* A connecting Iowa farms, schools, and communities broadband grant fund is established in the state treasury under the authority of the office. The fund shall consist of moneys available to and obtained or accepted by the office. Moneys in the fund are appropriated to the office to be used for the grant program.

*b.* The office shall use moneys in the fund to provide grants to communication service providers pursuant to this section. The office shall use moneys in the fund to leverage available federal moneys if possible.

*c.* Notwithstanding section 8.33, moneys in the fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

3. Communication service providers may apply to the office for a grant pursuant to this section for the installation of broadband infrastructure that facilitates broadband service at or above twenty-five megabits per second of download speed and three megabits per second of upload speed in targeted service areas. The office shall include representatives from schools, communities, agriculture, industry, and other areas as appropriate to review and recommend grant awards. The office shall conduct an open application review process and include a public internet site for applications, results, and performance.

4. *a.* The office shall award grants on a competitive basis after considering the following:

(1) The relative need for broadband infrastructure in the area and the existing broadband service speeds.

(2) The percentage of the homes, farms, schools, and businesses in the targeted service area that will be provided access to broadband service.

(3) The geographic diversity of the project areas of all the applicants.

(4) The economic impact of the project to the area.

(5) The applicant's total proposed budget for the project, including the amount or percentage of local match, if any.

(6) Other factors the office deems relevant.

*b.* Except as otherwise provided in this section, the office shall not evaluate applications based on the office's knowledge of the applicant except for the information provided in the application.

5. The office shall not award a grant pursuant to this section that exceeds fifteen percent of the communication service provider's project cost.

6. The office shall provide public notice regarding the application process and receipt of funding.

7. The office shall not award a grant pursuant to this section on or after July 1, 2020.

8. The office shall adopt rules pursuant to chapter 17A, including but not limited to the broadband grant program process, management, and measurements as deemed necessary by the office.

Sec. 33. NEW SECTION. **8B.25 Fiberoptic network conduit installation program.**

1. For purposes of this section:

*a. "Fiberoptic network conduit"* means a pipe, vault, or duct used to enclose fiberoptic cable facilities buried alongside a roadway or surface mounted on a bridge, overpass, or other facility where placement below ground is impossible or impractical. *"Fiberoptic network conduit"* does not include electronics or cable.

*b. "Public funding"* does not include a tax exemption authorized under section 427.1, subsection 40.

*c. "Where such conduit does not exist"* means that private or publicly owned fiberoptic cable is not currently within a linear range of five hundred feet or less in any one direction.

2. The office shall lead and coordinate a program to provide for the installation of fiberoptic network conduit where such conduit does not exist. The chief information officer shall consult and coordinate with applicable agencies and entities as determined appropriate to ensure that the opportunity is provided to lay or install fiberoptic network conduit wherever a state-funded construction project involves trenching, boring, a bridge, a roadway, or opening of the ground, or alongside any state-owned infrastructure.

3. Contingent upon the provision of funding for such purposes by the general assembly, the office may contract with a nongovernmental third party to manage, lease, install, or otherwise provide fiberoptic network conduit access for projects described in this section. This section does not require coordination with or approval from the office pursuant to this program or installation of fiberoptic conduit as required by this section for construction projects not using public funding.

Sec. 34. NEW SECTION. **8B.26 Broadband permitting process — expeditious response.**

Notwithstanding any other provision to the contrary and in compliance with applicable federal laws and regulations, a political subdivision vested with permitting authority shall approve, approve with modification, or disapprove nonwireless, broadband-related permits within sixty business days following the submission of the necessary application requirements. In the event that no action is taken during the sixty-day period, the application shall be deemed approved.

Sec. 35. Section 8D.3, subsection 2, paragraph a, Code 2015, is amended to read as follows:

a. The commission is composed of five voting members appointed by the governor and subject to confirmation by the senate. ~~Members~~ Voting members of the commission shall not serve in any manner or be employed by an authorized user of the network or by an entity seeking to do or doing business with the network.

(1) The governor shall appoint a voting member as the chairperson of the commission from the five voting members ~~appointed by the governor~~, subject to confirmation by the senate.

(2) ~~Members~~ Voting members of the commission shall serve six-year staggered terms as designated by the governor and appointments to the commission are subject to the requirements of sections 69.16, 69.16A, and 69.19. Vacancies shall be filled by the governor for the duration of the unexpired term.

(3) The salary of the voting members of the commission shall be twelve thousand dollars per year, except that the salary of the chairperson shall be seventeen thousand dollars per year. ~~Members~~ Voting members of the commission shall also be reimbursed for all actual and necessary expenses incurred in the performance of duties as members. The benefits and salary paid to the voting members of the commission shall be adjusted annually equal to the average of the annual pay adjustments, expense reimbursements, and related benefits provided under collective bargaining agreements negotiated pursuant to chapter 20.

Sec. 36. Section 8D.3, subsection 2, paragraph b, Code 2015, is amended to read as follows:

b. ~~In addition to the members appointed by the governor,~~ The auditor of state or the auditor's designee and the chief information officer appointed pursuant to section 8B.2

or the chief information officer's designee shall serve as a nonvoting, ex officio ~~member~~ members of the commission.

Sec. 37. Section 8D.4, Code 2015, is amended to read as follows:

**8D.4 Executive director appointed.**

The commission, ~~in consultation with the director of the department of administrative services and the chief information officer,~~ shall appoint an executive director of the commission, subject to confirmation by the senate. Such individual shall not serve as a member of the commission. The executive director shall serve at the pleasure of the commission. The executive director shall be selected primarily for administrative ability and knowledge in the field, without regard to political affiliation. The governor shall establish the salary of the executive director within range nine as established by the general assembly. The salary and support of the executive director shall be paid from funds deposited in the Iowa communications network fund.

Sec. 38. Section 80.28, subsection 2, Code 2015, is amended to read as follows:

2. The board shall consist of ~~fifteen~~ nineteen voting members, as follows:

a. The following members representing state agencies:

(1) One member representing the department of public safety.

(2) One member representing the state department of transportation.

(3) One member representing the department of homeland security and emergency management.

(4) One member representing the department of corrections.

(5) One member representing the department of natural resources.

(6) One member representing the Iowa department of public health.

(7) One member representing the office of the chief information officer created in section 8B.2.

(8) One member representing the Iowa law enforcement academy created in section 80B.4.

b. The governor shall solicit and consider recommendations from professional or volunteer organizations in appointing the following members:

(1) Two members who are representatives from municipal police departments.

(2) Two members who are representatives of sheriff's offices.

(3) Two members who are representatives from fire departments. One of the members shall be a volunteer fire fighter and the other member shall be a paid fire fighter.

(4) Two members who are law communication center managers employed by state or local government agencies.

(05) One member representing local emergency management coordinators.

(005) One member representing emergency medical service providers.

(5) One at-large member.

DIVISION IV

PROPERTY TAX INCENTIVES AND ASSESSMENT

Sec. 39. Section 421.1A, subsection 3, Code 2015, is amended to read as follows:

3. At the election of a property owner or aggrieved taxpayer or an appellant described in section 441.42, the property assessment appeal board shall review any final decision, finding, ruling, determination, or order of a local board of review relating to protests of an assessment, valuation, or application of an equalization order, or any final decision of the county board of supervisors relating to denial of an application for, or the revocation of, a property tax exemption pursuant to section 427.1, subsection 40.

Sec. 40. Section 421.1A, subsection 4, Code 2015, is amended by adding the following new paragraph:

NEW PARAGRAPH. *Ob.* Affirm or reverse a final decision of a county board of supervisors relating to denial of an application for, or the revocation of, a property tax exemption under section 427.1, subsection 40.

Sec. 41. Section 427.1, Code 2015, is amended by adding the following new subsection:

NEW SUBSECTION. 40. *Broadband infrastructure.*

*a.* The owner of broadband infrastructure shall be entitled to an exemption from taxation to the extent provided in this subsection. For the purposes of this subsection, "*broadband infrastructure*" and "*targeted service area*" mean the same as defined in section 8B.1.

*b.* The exemption shall apply to the installation of broadband infrastructure that facilitates broadband service at or above twenty-five megabits per second of download speed and three megabits per second of upload speed commenced and

completed on or after July 1, 2015, and before July 1, 2020, in a targeted service area, and used to deliver internet services to the public. A person claiming an exemption under this subsection shall certify to the local assessor prior to commencement of the installation that the broadband installation will take place within a targeted service area and shall specify the current number of homes, farms, schools, and businesses in the targeted service area that were offered broadband service and the download and upload speeds available prior to the broadband infrastructure installation for which the exemption is claimed and the number of homes, farms, schools, and businesses in the targeted service area that will be offered broadband service and the download and upload speeds that will be available as a result of installation of the broadband infrastructure for which the exemption is claimed.

*c.* The tax exemption shall be a one hundred percent exemption from taxation for a period of ten years in an amount equal to the actual value added by installation of the broadband infrastructure.

*d.* For companies assessed by the department of revenue pursuant to chapter 433, the exemption shall be limited to an amount equal to the actual value added by installation of the broadband infrastructure as of the assessment date as determined by the department and the exemption shall be applied to the unit value prior to any other exemption applicable to the unit value, as determined under that chapter.

*e.* (1) An application for an exemption shall be filed by the owner of the property with the department of revenue by February 1 of the year in which the broadband infrastructure is first assessed for taxation, or the following two assessment years, and in each case the exemption is allowed for ten years. Applications from applicants whose property is subject to assessment by the department pursuant to chapter 433 shall be reviewed by the department. All other applications shall be reviewed by the applicable county board of supervisors. The department shall forward those applications for exemption that are subject to review by the county board of supervisors to the county board of supervisors of each county in which the property is located.

(2) In lieu of subparagraph (1), and notwithstanding any provision in this subsection to the contrary, an owner may at any time before completion of the project submit a proposal to the department requesting that the department or the board

of supervisors, as applicable, allow the owner to file an application for exemption by February 1 of any other assessment year following completion of the project, which year shall be selected by the department or the board, as applicable. If the department approves or if the board, by resolution, approves the proposal, the exemption is allowed for ten years.

*f.* (1) The application shall be made on forms prescribed by the department. The application shall contain but not be limited to the following information:

(a) The nature of the broadband infrastructure installation.

(b) The percentage of the homes, farms, schools, and businesses in the targeted service area that will be provided access to broadband service.

(c) The actual cost of installing the broadband infrastructure under the project, if available. The application shall contain supporting documents demonstrating the actual cost.

(d) Certification from the office of the chief information officer pursuant to section 8B.10 that the installation is being performed or was completed in a targeted service area. Certification from the office of the chief information officer that broadband infrastructure installed in a targeted service area facilitates broadband service at or above twenty-five megabits per second of download speed and three megabits per second of upload speed.

(e) Certification of the date of commencement and actual or estimated date of completion.

(f) A copy of any nonwireless broadband-related permit issued by a political subdivision.

(g) If applying pursuant to paragraph "e", subparagraph (2), the actual cost already incurred for installation of broadband infrastructure, if any, the estimated costs for project completion, and the estimated date of project completion. The application shall contain supporting documents demonstrating the actual cost.

(2) The department and the board of supervisors shall not approve applications that are missing any of the information or documentation required in subparagraph (1). The department or the board of supervisors may consult with the office of the chief information officer to access additional information needed to review an application.

(3) The department or the board of supervisors, as

applicable, shall, by March 1, notify an applicant of approval or denial of an application for an exemption under this subsection and shall also notify the applicant of the applicant's right to an appeal.

(4) The board of supervisors shall forward all approved applications and any necessary information regarding the applications to the appropriate local assessor by March 1 annually. After the tax exemption is granted, the department or the local assessor, as applicable, shall continue to grant the tax exemption for ten years, and applications for exemption for succeeding years shall not be required.

(5) An applicant for a property tax exemption whose application was reviewed by the board of supervisors may appeal denial of the application to the property assessment appeal board within thirty days of the issuance of the denial.

(6) An applicant for a property tax exemption whose application was reviewed by the department may appeal denial of the application to the director of revenue within thirty days of the issuance of the denial.

(7) At any time after the exemption is granted and the broadband service is available in a targeted service area, the department or the board of supervisors, as applicable, under the direction of the office of the chief information officer, may require the property owner receiving the exemption to substantiate that the owner continues to provide the service described in paragraph "b". If the department or the board of supervisors determines that the property owner no longer provides the service described in paragraph "b", the department or the board of supervisors shall revoke the exemption. An owner may appeal the decision to revoke the exemption in the same manner as provided in subparagraphs (5) and (6), as applicable.

g. (1) If a company whose property in the county is not assessed by the department of revenue is approved to receive a property tax exemption pursuant to this subsection, the actual value added by installation of the broadband infrastructure shall be determined by the local assessor who shall certify the amount of exemption determined to the county auditor at the time of transmitting the assessment rolls.

(2) Notwithstanding any other provision of law to the contrary, if a company in which all or a portion of the company's property in the county is assessed by the department pursuant to chapter 433 and the company's property in the

county is approved to receive a property tax exemption pursuant to this subsection, the department shall assess all the company's property in the county used for operating telegraph and telephone lines, broadband, or cable systems for each assessment year the company receives the exemption, for purposes of determining the actual value added by installation of the broadband infrastructure.

*h.* The director of revenue shall adopt rules pursuant to chapter 17A for the interpretation and proper administration of the exemption provided in this subsection.

Sec. 42. Section 433.8, Code 2015, is amended to read as follows:

**433.8 Assessment in each county — how certified.**

The director of revenue shall, for the purpose of determining what amount shall be assessed to each company in each county of the state into which the line of the said company extends, certify to the several county auditors of the respective counties into, over, or through which said line extends the number of miles of line in the county for that company, the actual value per mile of line for that company, and the exemption value per mile of line for that company for exemptions received pursuant to section 427.1, subsection 40, section 433.4, or any other exemptions. In no case, however, shall the taxable value of the property be reduced below zero.

Sec. 43. RULES. The office of the chief information officer shall adopt rules pursuant to chapter 17A to certify that the installation of broadband infrastructure meets the requirements under section 427.1, subsection 40, as enacted in this division of this Act, for purposes of receiving a property tax exemption.

Sec. 44. IMPLEMENTATION. Section 25B.7 shall not apply to this division of this Act.

Sec. 45. APPLICABILITY. This division of this Act applies to assessment years beginning on or after January 1, 2016.

DIVISION V

INFORMATION TECHNOLOGY INFRASTRUCTURE FOR EDUCATION

Sec. 46. Section 423F.3, subsection 6, Code 2015, is amended by adding the following new paragraph:

NEW PARAGRAPH. *0c.* Additionally, "*school infrastructure*" includes the acquisition or installation of information technology infrastructure. For purposes of this paragraph, "*information technology infrastructure*" means the basic, underlying physical framework or system necessary to deliver

technology connectivity to a school district and to network school buildings within a school district.

DIVISION VI

CONDITIONAL EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISIONS

Sec. 47. EFFECTIVE UPON ENACTMENT. Unless otherwise provided, this Act, if approved by the governor on or after July 1, 2015, takes effect upon enactment.

Sec. 48. RETROACTIVE APPLICABILITY. Unless otherwise provided, this Act, if approved by the governor on or after July 1, 2015, applies retroactively to July 1, 2015.

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KRAIG PAULSEN  
Speaker of the House

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PAM JOCHUM  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 655, Eighty-sixth General Assembly.

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CARMINE BOAL  
Chief Clerk of the House

Approved \_\_\_\_\_, 2015

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TERRY E. BRANSTAD  
Governor